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IN THE ARIZONA SUPREME COURT

In the Matter of PETITION TO ADOPT
RULE 52.1, RULES OF PROCEDURE
FOR THE JUVENILE COURT

R-20-0044

COMMENT ON PETITION

Molly Dunn on behalf of Children's Action Alliance respectfully offers this comment under Rule 28(d), Arizona Rules of the Supreme Court, to the proposed Rule 52.1, Arizona Rules of Procedure for the Juvenile Court (Juvenile Rules).

I. Introduction.

Children's Action Alliance (CAA) respectfully submits the following comments and suggested amendments to proposed Rule 52.1 Qualified Residential Treatment Program (Q RTP); Judicial Review of the Arizona Rules of Procedure for the Juvenile Court. Children's Action Alliance is pleased to have had the opportunity to previously provide comments to the Task Force on the Arizona Rules of Procedure for the Juvenile Court as the rule was being drafted and appreciates that many of our suggestions were included. There are two sections to

which we offer comment and amendment: Section (b)(2) defining a “qualified individual” for conducting a QRTP assessment and Section (d)(2)(B) allowing the court to make a ruling without a hearing if no party objects to the motion for approval of the QRTP placement.

II. Definition of Qualified Individual: Proposed Rule 52.1(b)(2)

The proposed rule defines an individual who is qualified to conduct an assessment for QRTP placement as “a trained professional or licensed clinician who is qualified to conduct a QRTP assessment.” This definition is vague and does not ensure that the person conducting the QRTP assessment has the necessary skills, experience, and objectivity. CAA suggests that section (b)(2) be amended to read:

(b)(2) “*Qualified Individual*” means a ~~trained professional or licensed clinician~~ CLINICIAN LICENSED BY THE STATE OF ARIZONA who:

(A) ~~is qualified to conduct a QRTP assessment~~ HAS TWO OR MORE YEARS CHILD WELFARE EXPERIENCE; AND

(B) DOES NOT HAVE DIRECT CASE MANAGEMENT RESPONSIBILITY OR PLACEMENT AUTHORITY FOR THE CHILD WHO IS THE SUBJECT OF THE QRTP ASSESSMENT.

~~(B)~~(C) is not an employee of DCS unless the requirement is waived pursuant to 42 U.S.C. § 675a(c)(1)(D); and

~~(C)~~(D) is not connected to or affiliated with any placement setting in which children are placed by the State unless the requirement is waived pursuant to 42 U.S.C. § 675a(c)(1)(D).

III. Conduct of Hearing Only Upon Party Objection: Proposed Rule 52.1(d)(2)(B)

The proposed rule allows the court to rule on the motion for approval of QRTP placement without a hearing if no party objects to the motion. The decision to approve QRTP placement is one of serious consequence, especially for the child who will be placed in the restrictive setting. As such, it should be accompanied by a high level of due process, including a hearing. Children's Action Alliance believes a hearing should be conducted in all instances unless affirmatively waived by the parties. CAA suggests section (d)(2)(B) be amended as follows:

(B) DCS must file a motion seeking approval of the child's placement in the QRTP no later than 10 court days after receipt of the QRTP assessment. The motion must contain supporting documentation, including the QRTP assessment. ~~If no party objects to placing the child in the QRTP~~ ALL PARTIES AGREE TO WAIVE THE RIGHT TO A HEARING ON THE MOTION, the court may rule upon the motion based on the supporting documentation without a hearing.

IV. Conclusion.

Children's Action Alliance believes its proposed amendments to Rule 52.1 will ensure the appropriate assessment and placement of children in Qualified

Residential Treatment programs. CAA appreciates the opportunity to comment on Proposed Rule 52.1 and respectfully requests that the Court adopt the offered amendments.

DATED this 15th day of June 2021.

/s/Molly L. Dunn

Molly L. Dunn

Director of Child Welfare Policy

CHILDREN'S ACTION ALLIANCE